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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Jack M. Birbaum

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7590

03/23/2004

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EXAMINER

NGUYEN, VAN H

ART UNIT

PAPER NUMBER

2126

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/980,768

Applicant(s)

BIRNBAUM ET AL.

Examiner

VAN H NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) 27-87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 88-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. This Office Action is in response to amendment A filed December 19, 2003.
2. Claims 1-89 are pending in this application. Claims 27-87 are withdrawn from consideration.
3. Applicant is required to cancel non-elected claims 27-87 in the next response to this office action.

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities:  
“the core system software” (claim 1, line 9) should be deleted.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 88-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Evain "The Multimedia Home Platform" EBU Technical Review - Spring 1998- pp.4-10.

7. As to claim 1, Evain teaches (pp. 4-10) an interface to core system software in a user terminal (*fig.2, page 5*), comprising:

- a computer readable medium having computer program code; and means for executing the computer program code (*page 9, first and second columns*) to provide at least one software interface between middleware (*e.g., API; fig.2, page 5*) that mediates between an application program (*e.g., application program 1, application program 2; fig.2, page 5*) and the score system software (*e.g., system software; fig.2, page 5*); the software interface enabling the application program to access a function of the terminal provided by the core system software via the middleware (*fig.2 and page 8*).

8. As to claim 88, Evain teaches the terminal comprises a television terminal (*page 4*).

9. As to claim 89, it is directed to a method for presenting the system of claim 1, and is similarly rejected under the same rationale.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Evain** in view of **Sambar** "*PowerTV Operating System*" Release 1.5, October 1998, pp.1-52.

11. **As to claim 2**, Evain does not explicitly teach acquiring a service.

Sambar teaches acquiring a service (*page 47, lines 9-13*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing different content and service providers to share different implementations of compliant platforms.

12. **As to claim 3**, Evain does not explicitly teach acquiring a service by tuning a specified virtual channel number or source ID using a specified service path.

Sambar teaches the function of the terminal comprises acquiring a service by tuning a specified virtual channel number or source ID using a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

13. **As to claim 4**, Sambar teaches the function of the terminal comprises determining the status of a service (*page 49, lines 5-11*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for ensuring the services are delivered to the user.

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14. **As to claim 5**, Sambar teaches requesting status information regarding a currently-tuned primary service on a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching because would have provided the capability for allowing the service providers to provide the services to the appropriate user.

15. **As to claim 6**, Sambar teaches registering a client for unsolicited service status updates for a currently tuned primary service on a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

16. **As to claim 7**, Sambar teaches canceling a registration for service status updates that was previously set up (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

17. **As to claim 8**, Sambar teaches obtaining a summary of current Virtual Channel Table information for all defined virtual channels (*page 47, line 14-page 48, line 6*).

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the service information to the user.

18. **As to claim 9**, Sambar teaches obtaining a summary of current Virtual Channel Table information and characteristics for all defined DOCSIS downstream channel (*page 47, line 14- page 48, line 6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the service information to the user.

19. **As to claim 10**, Sambar teaches adding a service component of a specified type to a primary service on a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

20. **As to claim 11**, Sambar teaches deselecting a specified component from a primary service on a specified service path (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

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21. **As to claim 12**, Sambar teaches selecting a service component that carries particular multicast datagrams (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

22. **As to claim 13**, Sambar teaches extracting datagram fragments from datagram sections being carried on one or more elementary PID stream components (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

23. **As to claim 14**, Sambar teaches deselecting a specified stream component that was previously selected (*page 47, lines 14-22*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

24. **As to claim 15**, Sambar teaches requesting message from a text or data-service component that was previously selected (*page 49, lines 1-7*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching



would have provided the capability for allowing the service providers to provide the services to the appropriate user.

25. **As to claim 16**, Sambar teaches at least one of acquiring downstream data from a specified service source; and releasing access to downstream data from a specified service connection (*page 47, lines 14-35*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

26. **As to claim 17**, Sambar teaches receiving data or text from a specified background service connection that was previously acquired (*page 49, lines 1-7*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

27. **As to claim 18**, Sambar teaches obtaining at least one virtual channel number associated with a specified source identifier (*page 48, lines 1-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

28. **As to claim 19**, Sambar teaches obtaining a source identifier associated with a specified virtual channel number (*page 48, lines 1-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

29. **As to claim 20**, Sambar teaches obtaining a list of pending changes to a Virtual Channel Table (*page 47, lines 14-35*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

30. **As to claim 21**, Sambar teaches obtaining a Defined Channel Bit Map (DCBM) for a specified channel type that represents currently defined virtual channels/services (*page 48, lines 1-27*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

31. **As to claim 22**, Sambar teaches identifying a next audio and/or video component for a service (*page 48, lines 1-18*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing different content and service providers to share different implementations of compliant platforms.

32     **As to claim 23**, Sambar teaches obtaining a virtual channel number associated with a specified application identifier (*page 48, lines 1-6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

33     **As to claim 24**, Sambar teaches obtaining an application identifier associated with a specified Virtual Channel Number (*page 48, lines 1-6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

34     **As to claim 25**, Sambar teaches obtaining an application identifier associated with a specified source name string (*page 48, lines 1-6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

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35     **As to claim 26**, Sambar teaches obtaining a source name string identifier associated with a specified application ID (*page 48, lines 1-6*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Evain with Sambar because Sambar's teaching would have provided the capability for allowing the service providers to provide the services to the appropriate user.

### ***Response to Arguments***

36 Applicant's arguments filed on December 19, 2003 have been fully considered but they are not persuasive.

37 In the remarks, Applicant argued in substance that Evain does not disclose or remotely suggest a software interface between middleware and core system software as claimed by Applicants.

38 Examiner respectfully traverses Applicant's remarks:

Evain shows a software interface (*fig.2*) between middleware (*e.g., API*) and core system software (*e.g., system software*).

Accordingly, Evain reference meets the limitations as broadly claimed by Applicant.

### ***Conclusion***

39 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

38. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

40 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

41 Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H NGUYEN whose telephone number is (703) 306-5971. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703) 305-9678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

**Any response to this action should be mailed to:**

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450


**or fax to:**

(703) 746-7239 (for formal communications intended for entry)

(703) 746-7238 (for After Final communications)

(703) 746-7240 (for informal or draft communications)

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